

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220 and 315, Fish and Game Code and to implement, interpret or make specific sections 200, 205 and 215, Fish and Game Code, proposes to amend Subsections 7.50(b)(5) and (156), Title 14, California Code of Regulations, to protect Winter-run Chinook salmon in a portion of the Mainstem Sacramento River and the mouth of the American River.

Informative Digest/Policy Statement Overview

Sacramento River winter-run Chinook salmon were listed as endangered by the Fish and Game Commission (Commission) on September 22, 1989. The National Marine Fisheries Service listed the run as endangered under the Federal Endangered Species Act in February 1994. Although there has been some recovery in recent years, the winter-run Chinook population remains well below levels defined for recovery of the run.

Angling regulations adopted by the Commission in 1990 for the mainstem Sacramento River were designed to prevent harvest of upstream migrating winter-run Chinook salmon and other depleted stocks. Based on the best available data at the time these regulations were implemented, the no-retention periods for Chinook salmon in the Sacramento River were expected to cover the entire period when adult winter-run would occur in these areas.

However, recent data from the Department's Central Valley Salmon and Steelhead Harvest Monitoring Project indicate that a relatively high inland sport harvest of winter-run Chinook salmon may have occurred in late December 2000 and early January 2001, immediately prior to the no-retention period. Based on these data, an emergency regulation change was approved by the Commission on October 24, 2002, and went into effect January 1, 2003. The emergency action prohibited the retention of Chinook salmon in the Sacramento River from Bend Bridge to the Carquinez Bridge from January 1 (formerly January 15) through July 15, and in the American River from the Jibboom Street Bridge to the mouth from January 1 (formerly January 15) through July 15.

The proposed action would make permanent the emergency action approved on October 24, 2002, and would clarify the regulations by designating Red Bluff Diversion Dam (instead of Bend Bridge) as a consistent boundary between reaches identified in Sections 7.50(b)(156)(F)(G) and (H). The proposal also includes establishing a point 150 feet below the Lower Red Bluff (Sycamore) boat ramp as a reference point for defining the area closed to fishing below RBDD rather than the current point that is just a 1,375-foot measurement.

This regulation proposal also consists of an adjustment of the fishery management reaches in the main stem Sacramento River near Red Bluff that simplifies the regulations and provides more fishing opportunity for late fall-run Chinook while maintaining protection for winter-run Chinook. Current regulations define a reach from Deschutes Road Bridge (near Redding) to Bend Bridge (approximately 5 miles upstream from the town of Red Bluff), and an adjacent reach from Bend Bridge downstream to the Carquinez Bridge. The river reach downstream of Bend Bridge to the Red Bluff Diversion Dam (RBDD) consists of a salmon fishery that is more characteristic of the

reach above Bend Bridge than the reach below RBDD. In addition, CWT winter-run Chinook have not been recovered in sampling efforts between RBDD and Bend Bridge. The Department recommends using RBDD as a demarcation between the upper and lower reaches described above, instead of Bend Bridge. This would allow the five miles between Red Bluff and Bend Bridge to remain open for salmon retention until January 15, while the area below RBDD would close two weeks earlier on January 1 for the protection of winter-run Chinook.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California on June 20, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 10, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than June 20, 2003, at the hearing in Mammoth Lakes, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Dr. Ed Pert, Chief, Fisheries Program Branch, Department of Fish and Game, phone (916) 445-3616, 1812 Ninth Street, Sacramento, CA 95814, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses,

including the ability of California businesses to compete with businesses in other states. Several local fishing guide services for resident trout, steelhead trout, and Chinook salmon operate in the Bay-Delta and the Sacramento River. These businesses may be impacted by the increased no-retention period for Chinook salmon proposed in this action. However, analysis in Section III indicates that angling effort was relatively low in the January 1-14 period. Fishing regulations on the Sacramento River upstream from Red Bluff Diversion Dam would not be affected by the proposed action; regulations for resident and steelhead trout would also not be affected.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: April 14, 2003

John M. Duffy
Assistant Executive Director